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December 6, 2013  
**VIA CM/ECF FILING SYSTEM**

Honorable Norman K. Moon  
U S District Court  
Western District of Virginia  
255 West Main Street  
Charlottesville VA 22902

Re: *Albert Clatterbuck, Christopher Martin, Earl McCraw, John Jordan, and Michael Sloan*  
*v. City of Charlottesville*  
U S District Court Case No.: 3:11CV00043

Dear Judge Moon:

Pursuant to this Court's Order (Doc #76) granting leave to file supplemental authority, I write to direct the Court to supplemental authority which has come to my attention following the November 21, 2013 hearing on cross Motion(s) for Summary Judgment in the above-styled case.

In *McCullen v. Coakley*, 708 F.3d 1 (1<sup>st</sup> Cir. 2013) and on interlocutory appeal, 571 F.3d 167 (1<sup>st</sup> Cir 2009), the First Circuit upheld, facially and as applied under the First Amendment, a Massachusetts statute which established a thirty-five foot (35') buffer zone around reproductive health care facilities as a content-neutral time, place, and manner restriction. The United States Supreme Court granted petitioners a Writ of Certiorari (Docket No. 12-1168) and has set the case for oral argument on January 15, 2014.

The Questions Presented, as stated in Petitioners' Brief, are:

1. Whether the First Circuit erred in upholding Massachusetts' selective exclusion law under the First and Fourteenth Amendments, on its face and as applied to petitioners.
2. If *Hill v. Colorado*, 530 U.S. (2000), permits enforcement of this law, whether *Hill* should be limited or overruled.

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Re: *Clatterbuck, et al. v. City of Charlottesville*

The Questions Presented, as stated in Respondents' Brief, are:

1. Whether Massachusetts's regulation of conduct in the area immediately around facility entrances to preserve public safety and patient access constitutes a permissible time-place-manner regulation under the Free Speech Clause of the First Amendment.
2. Whether the court should decline petitioners' invitation to review and overturn *Hill v. Colorado*, 530 U.S. (2000), where this case does not present the issues unique to *Hill*.

The Question Presented, as stated by the United States in its brief as *amicus curiae*, is:

Whether a Massachusetts statute that creates buffer zones extending 35 feet from the entrances and driveways of reproductive health-care facilities violates the First Amendment, either on its face or as applied at several specific facilities.

Review of the briefs of Petitioners, Respondents, and some of the over twenty *amicus curiae* (including the United States, filed November 22, 2013) reflects that many of the arguments made by Plaintiffs and Defendant in *Clatterbuck, et al. v. City of Charlottesville* in their briefs and at oral argument on the cross Motion(s) for Summary Judgment are advanced by the respective parties in *McMullen*.

Sincerely,

Richard H. Milnor

RHM/kmt

cc: Jeffrey Fogel, Esquire  
Steven D. Rosenfield, Esquire  
Rebecca Glenberg